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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/635,049	08/06/2003	David E. Galomb	F1012/20130	1331
3000	7590	02/10/2006	EXAMINER	
CAESAR, RIVISE, BERNSTEIN, COHEN & POKOTILOW, LTD. 11TH FLOOR, SEVEN PENN CENTER 1635 MARKET STREET PHILADELPHIA, PA 19103-2212			PASCUA, JES F	
			ART UNIT	PAPER NUMBER
			3727	
DATE MAILED: 02/10/2006				

Please find below and/or attached an Office communication concerning this application or proceeding.

SP

Office Action Summary	Application No.	Applicant(s)	
	10/635,049	GALOMB ET AL.	
	Examiner	Art Unit	
	Jes F. Pascua	3727	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 06 August 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-29 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-29 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>11/3/03</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 1-29 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claims 1 and 21, the functional recitation that "said wall of said male closure element being arranged to snap-fit into engagement with said wall of said female closure element to hold portions of said first panel in a confronting relationship with portions of said second panel to close said mouth to impede the ingress of air into the package through said mouth" is indefinite because it is not supported by recitation in the claim of sufficient structural relationship between the closure elements and the package panels to accomplish the function; especially in light of claim 3 which requires both the male and female closure elements to be secured to the interior wall of respective ones of the panels.

There are two occurrences of "Claim 2". The first one is found on page 26, lines 19-21 and the second one is found on page 29, lines 5-7. The second occurrence of "Claim 2" should be deleted.

Claims 8 and 27 are inconsistent with the claims from which they depend. Dependent claims 8 and 27 recite "both of said male and female closure elements are secured to one of said panels", whereas independent claims 1 and 21 recite "said male closure element being secured to said first panel adjacent said mouth, said female closure element being secured to said second panel adjacent said mouth."

Claims that have not been specifically mentioned are rejected since they depend from claims rejected under 35 U.S.C. § 112, second paragraph.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1, 2, 3, 13, 14, 19, 20, 21 and 22 are rejected under 35 U.S.C. 102(b) as being anticipated by Wheeler.

Wheeler discloses a combination of a package 10 and snap-closure therefor, the package having a mouth and being formed from first and second panels 11, 12. The snap-closure comprises a male closure element 20 and female closure element 21. The male closure element comprises a planar base member 26 and a wall 25 projecting upward from the base. The female closure element comprises a planar base members and a wall 22 projecting from the base. Fig. 6 of Wheeler shows the male closure

element 20 secured to the first panel 11 adjacent the mouth of the package and the female closure element 21 secured to the second panel 12 adjacent mouth of the package. The walls of the male and female closure elements are arranged for snap-fit engagement with each other to hold portions of the first and second panels in confronting relationship with each other.

Regarding claims 3 and 22, Wheeler shows the walls of the male and female closure elements passing through aligned apertures 18 into snap-fit engagement with each other, thus meeting the recitation "said male and female closure elements are secured to the interior wall of respective ones of said panels.

Regarding claims 13 and 14, the base members of each closure element comprises an opening.

Regarding claims 19 and 20, the male and female closure elements are secured to each other by a bridge section 27 located between the base members and the closure elements wherein the bridge section 27 is arranged to be bent.

5. Claims 1, 2, 4, 21 and 23 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Breil, Jr.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the

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invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 17 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wheeler or Breil, Jr.

Wheeler and Breil, Jr. each disclose the claimed invention except for one or both of the panels having a handle. It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide a handle on one or both of the panels in Wheeler or Breil, Jr. since it was known in the art that handles on the panels of packages facilitate transporting the package from one place to another.

Allowable Subject Matter

8. Claims 5-12, 15, 16 and 24-29 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Conclusion


9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jes F. Pascua whose telephone number is 571-272-4546. The examiner can normally be reached on Mon.-Thurs..

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nathan J. Newhouse can be reached on 571-272-4544. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Jes F. Pascua
Primary Examiner
Art Unit 3727

JFP